IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 281 of 2000

in

SPECIAL CIVIL APPLICATION No 5393 of 1989

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T C

Versus

MAVJI SAMANT CHAVDA

Appearance:

MR HARDIK C RAWAL for the Appellant

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE P.B.MAJMUDAR

Date of decision: 15/01/2001

ORAL JUDGEMENT

(Per : CHIEF JUSTICE MR DM DHARMADHIKARI)

On this Letters Patent Appeal, notice was issued and despite service to the respondent, no one appears on his behalf. The Appeal is, therefore, admitted.

The learned counsel for the appellant is finally heard on merits.

From the impugned order of the learned single Judge, particularly the operative part thereof, we find that, in the peculiar circumstances of the case, with the consent of the parties, the Court exercised discretion of directing the respondent, who was a Conductor of the Appellant-Corporation, to be reinstated in service with order of 50% of back wages. The balance of 50% of the back wages was recovered from him. Learned counsel for the Corporation, argues that even if the award of reinstatement in service was not disturbed, there was no justification for the learned single Judge to direct payment of 50% of back wages in view of the misconduct held proved against the Conductor.

We find from the order of the learned single Judge that the relevant circumstances taken into consideration are that pursuant to the Award of the Labour Court, the corporation had reinstated the respondent-Conductor in service. 50% of the back wages paid to him earlier have also been refunded by him. To direct the respondent now to return the remaining 50% of the back wages would be rather harsh as the amount might have been spent already by the Conductor. The learned single Judge, in the aforesaid circumstances, interfered with the quantum of punishment. It would not be proper for us in Letters Patent Appeal to upset the same.

For the aforesaid reasons, we find no merit in this Letters Patent Appeal, which is accordingly dismissed. No costs.

15th January, 2001 (D.M. Dharmadhikari, C.J.)

(P.B. Majmudar, J.)

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(apj)